



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-878

Certain Electronic Devices Having Placeshifting or Display Replication Functionality and Products Containing Same

Issuance of a Limited Exclusion Order and Cease and Desist Orders Against Respondents Found in Default; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued (1) a limited exclusion order against infringing electronic devices and products of respondents Monsoon Multimedia, Inc. of San Mateo, California (“Monsoon”) and C2 Microsystems, Inc. of San Jose, California (“C2 Microsystems”) (collectively “the Defaulting Respondents”); and (2) cease and desist orders directed against the Defaulting Respondents. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are

advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 17, 2013, based on a complaint filed on behalf of Sling Media, Inc. of Foster City, California (“Sling”) on March 12, 2013. 78 FR 22899 (April 17, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain claims of U.S. Patent Nos. 7,877,776 (“the ’776 patent”); 8,051,454 (“the ’454 patent”); 8,060,909 (“the ’909 patent”); 7,725,912 (“the ’912 patent”); 8,266,657 (“the ’657 patent”); and 8,365,236 (“the ’236 patent”). The notice of investigation named the Defaulting Respondents and Belkin International, Inc. of Playa Vista, California (“Belkin”), as respondents. The Office of Unfair Import Investigations is not participating as a party in this investigation.

On May 20, 2013, complainant Sling and respondent Belkin jointly filed a motion to terminate the investigation as to Belkin based on a settlement agreement. On June 5, 2013, the ALJ issued an initial determination (“ID”) granting the motion. *See* Order No. 4 (June 5, 2013). On July 5, 2013, the Commission determined not to review the ID terminating Belkin from the investigation.

On June 11, 2013, the ALJ ordered Monsoon to show cause by June 26, 2013, why it should not be held in default for failing to respond to the Complaint and Notice of Investigation. *See* Order No. 5 (June 11, 2013). On June 26, 2013, Monsoon did not respond to the show cause order, and instead moved to terminate the investigation based on a consent order. On July 8, 2013, the ALJ issued an ID, finding Monsoon to be in default for failing to respond to the show cause order. *See* Order No. 7 (July 8, 2013). The ALJ found that Monsoon’s motion to

terminate on consent was defective and did not respond to the show cause order. *Id.* On July 15, 2013, Monsoon filed a contingent petition for review on the grounds that the ID affects Commission policy. The petition argued that the default finding should be reversed or remanded because Commission policy favors consent orders over default judgments. Additionally, the petition argued that Monsoon believed that its motion to terminate the investigation rendered the show cause order moot. On July 22, 2013, Sling opposed Monsoon's petition. On August 7, 2013, the Commission determined not to review the ID finding Monsoon in default.

On July 11, 2013, the ALJ ordered C2 Microsystems to show cause by July 25, 2013, why it should not be held in default for failing to respond to the Complaint and Notice of Investigation. *See* Order No. 9 (July 11, 2013). No response to Order No. 9 was filed. On July 29, 2013, the ALJ issued an ID, finding C2 Microsystems to be in default under Commission Rule 210.16. *See* Order No. 11 (July 29, 2013). On August 15, 2013, the Commission determined not to review the ID finding C2 Microsystems in default. 78 FR 52211 (Aug. 22, 2013). The Commission requested briefing from the parties and the public on the issues of remedy, the public interest, and bonding. On August 30, 2013, Sling filed responsive briefing, and submitted a proposed limited exclusion order and proposed cease and desist orders against Monsoon and C2 Microsystems. No other responses to the Commission notice were received.

The Commission finds that the statutory requirements of section 337(g) (19 U.S.C. § 1337(g)) and Commission rule 210.16(a) (19 CFR 210.16(a)) are met with respect to the Defaulting Respondents. Accordingly, pursuant to section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission rule 210.16(c) (19 CFR 210.16(c)), the Commission presumes the facts alleged in the complaint to be true and finds that Monsoon and C2 Microsystems are in violation of section 337.

The Commission has determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of electronic devices having placeshifting or display replication functionality and products containing the same that are manufactured abroad by or on behalf of, or imported by or on behalf of, the Defaulting Respondents by reason of infringement of one or more of claims 18-24, 26, 28-30, 32-40, 42, and 43 of the '776 patent; claims 7, 9-12, 14, 15, and 17 of the '909 patent; claims 1, 2, 4, and 6-20 of the '454 patent; claims 58-68, 70, 71, 73, 74, 103, 104, 106, and 108 of the '912 patent; claim 81 of the '657 patent; and claims 1-8 and 15-20 of the '236 patent. The Commission has also determined to issue cease and desist orders directed against Monsoon and C2 Microsystems, which prohibit, *inter alia*, the importation, sale, advertising, marketing, and distribution of covered products in the United States by the Defaulting Respondents. The Commission has further determined that the public interest factors enumerated in section 337(f)(1) and (g)(1) (19 U.S.C. §§ 1337(f)(1), (g)(1)) do not preclude issuance of the remedial orders. Finally, the Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of 100 percent of the entered value of the imported subject articles of the Defaulting Respondents. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: December 2, 2013

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